

Regional Haze Hearing

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BEFORE THE ENVIRONMENTAL PROTECTION AGENCY

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IN RE: WYOMING REGIONAL HAZE PUBLIC HEARING

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TRANSCRIPT OF PUBLIC HEARING PROCEEDINGS

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Pursuant to notice duly given to all parties in

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interest, this matter came on for public hearing on

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the 26th day of July, 2013, at the hour of 6:00 p.m.,

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at the Wyoming Oil and Gas Conservation Commission

14

Hearing Room, 2211 King Boulevard, Casper, Wyoming before

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Ms. Gail Fallon, Hearing Officer, and Ms. Monica Morales

16

also in attendance.

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1 P R O C E E D I N G S

2 (Hearing proceedings commenced

3 6:00 p.m., July 26, 2013.)

4 MS. FALLON: We're going to go ahead and
5 get started, if you want to take your seats. Good
6 afternoon. My name is Gail Fallon. I'm from EPA in
7 Denver, Colorado. Thank you all for coming this
8 afternoon. I will be presiding over this hearing today.
9 This hearing is now officially in session.

10 The subject of today's hearing is the
11 Environmental Protection Agency's reproposal to approve a
12 portion of Wyoming's regional haze state implementation
13 plan, or SIP. EPA also proposes to disapprove a portion
14 of the SIP and propose a federal implementation plan, or
15 FIP, for that portion of the SIP.

16 EPA initially proposed its decision in the
17 Federal Register on June 4th, 2012. During the public
18 comment period ending August 3rd, 2012, EPA received
19 comments that caused EPA to go back and reevaluate its
20 proposal. In response to these comments, EPA conducted
21 its own cost analysis for the BART and reasonable
22 progress electric generating units, or EGUs, and EPA also
23 revised its modeling of the visibility improvement for
24 these sources. You will hear more detail regarding the
25 proposal from Monica Morales momentarily.

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1 The fact sheet on the table in the back of the
2 room explains how you may submit written comments on
3 EPA's proposal and also gives the Federal Register's
4 citation for the proposal. This hearing is a means for
5 EPA to listen to your comments on the proposed Federal
6 Register notice. But before I turn it over to Monica,
7 let me explain a bit about the process and a few ground
8 rules for the hearing.

9 When EPA takes action on a state implementation
10 plan or federal implementation plan, it is required to do
11 so through rule-making. This rule-making is governed by
12 laws passed by Congress; through SIPs, the Administrative
13 Procedures Act; for FIPs, the Clean Air Act. In either
14 case, EPA must publish a proposed rule in the Federal
15 Register, take public comment on the proposed rule and
16 publish a final rule in the Federal Register after
17 considering the comments.

18 In the case of FIPs, EPA's also required to
19 conduct a hearing, which is what we're doing here today.
20 After considering all the comments, EPA may decide to
21 make changes to the proposal, or it may decide to
22 finalize the rule as proposed.

23 We are here today to listen to your comments.
24 We will attempt to answer any clarifying questions about
25 the process or what's contained in the proposal, but we

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1 are not here to explain the basis for the proposal. The
2 Federal Register notice does that. We cannot engage in a
3 back-and-forth discussion of the proposal or respond to
4 your comments during this hearing. The purpose of the
5 hearing is to receive your input. We will consider and
6 respond to all comments received during this hearing, as
7 well as all written comments, in a final Federal Register
8 notice. If you've already made comments, there's no need
9 to repeat them today.

10 We're recording our proceedings here today, so
11 be assured that your comments will be considered. The
12 court reporter sitting to my left will be preparing a
13 transcript of today's proceeding that will be available
14 for anyone who wants to see it. The transcript is part
15 of the record and will be included in the rule-making
16 docket. The rule-making docket is where EPA collects
17 materials it has considered in its rule-making action,
18 including public comments. The docket is available on
19 the internet for review at regulations.gov, or you can
20 view a hard copy in EPA's Denver office. Specific
21 instructions for accessing the docket are described in
22 the Federal Register notice for the proposed rule-making
23 and on the fact sheet that we've made available. The
24 transcript of this hearing will also be available in the
25 rule-making docket.

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1 Before we begin taking your comments, first
2 allow me to take a moment to set the stage, that is, to
3 explain how the hearing will be run. After I speak,
4 Monica Morales, who is sitting here at the table with me,
5 will explain the details of the proposed action. She
6 will explain what the State is proposing in its SIP, as
7 well as what EPA is proposing in its FIP, based on the
8 Federal Clean Air Act requirements for regional haze.

9 I will then call people to speak based on the
10 card or the sheet that was filled out when you arrived.
11 We need to keep people's comments brief, five minutes or
12 less, at least in the beginning. Please try to be
13 succinct and on point as you can. If I find that we are
14 straying from the topic at hand, I will interrupt and ask
15 that you please return to the issue before us. If we
16 have time at the end and everyone has had the chance to
17 speak and you have more to say than the five minutes you
18 were given, then I'll allow people to get back up and
19 finish their comments.

20 So that's how we'll proceed. Next to speak is
21 Monica Morales, and she'll explain the proposed action.

22 MS. MORALES: So, good afternoon. My name
23 is Monica Morales. I'm acting director for the State
24 Partnerships and Sustainable Practices Program in EPA's
25 Region 8 office in Denver. As you heard from Ms. Fallon,

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1 this hearing concerns EPA's proposed action on a portion
2 of Wyoming's regional haze state implementation plan that
3 addresses requirements pertaining to particulate matter
4 and nitrogen oxides and visibility impacts those
5 pollutants have at wilderness areas and national parks,
6 a/k/a under the regional haze rules Class 1 areas.

7 Our proposed action was published in the
8 Federal Register on June 10th, 2013. We are required by
9 consent decree to finalize a proposed action on Wyoming's
10 regional haze plan for nitrogen oxides and particulate
11 matter by November 21st, 2013.

12 So, when you signed in, there was a regional
13 haze fact sheet. If any of you are interested, if you
14 didn't get that, feel free to take one. This fact sheet
15 provides a general background of EPA's regional haze rule
16 and explains some of the terms and acronyms that will be
17 discussed during the hearing. I encourage those of you
18 who are not familiar with the regional haze rule to take
19 a look at the fact sheet. We have also posted the fact
20 sheet on EPA's Region 8 website.

21 In response to a June 13th request from the
22 Wyoming governor, the EPA is holding today's public
23 hearings in addition to the hearings held on June 24th of
24 this year and July 17th. The EPA is also extending the
25 comment period to August 26th, 2013. The Federal

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1 Register notice announcing the additional hearings and
2 the new closing date for the comment period was published
3 on July 8th.

4 In our June 10, 2013 actions, we are proposing
5 to approve the majority of Wyoming's regional haze SIP
6 for the particulate matter nitrogen oxides.
7 Specifically, we are proposing approval of the State's
8 best available retrofit technology, a/k/a BART,
9 determinations for nitrogen oxides for four electrical
10 generating units, or EGUs, at PacifiCorp's Jim Bridger
11 plant, one electrical generating unit at PacifiCorp's
12 Naughton plant and four units at two trona plants.

13 We are proposing to approve the State's
14 particulate matter determinations under BART for all of
15 the units in Wyoming that are subject to BART
16 requirements. We are also proposing to approve the
17 State's regional progress determinations for nitrogen
18 oxides and particulate matter for the oil and gas sources
19 and for one cement plant.

20 We are proposing to disapprove and put in place
21 a federal plan for the best available retrofit technology
22 determinations and the emission limits associated with
23 those determinations for NOx at eight electrical
24 generating units. And those facilities would be
25 PacifiCorp's Dave Johnston Units 3 and 4, Naughton Units

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1 1 and 2 and Wyodak Unit 1 and Basin Electric's Laramie
2 River Units 1, 2 and 3. For these PacifiCorp and Basin
3 Electric units, we disagree with the State's conclusion
4 that low NOx burners and over-fired air combustion
5 controls represent BART for NOx.

6 We are instead proposing the use of selective
7 noncatalytic reduction, or SNCR, controls for two of
8 these units, those being PacifiCorp's Dave Johnston Unit
9 4 and PacifiCorp's Wyodak Unit 1. We are proposing the
10 use of selective catalytic reduction, or SCR, controls
11 for PacifiCorp's Dave Johnston Unit 3, PacifiCorp's
12 Naughton Units 1 and 2 and Basin Electric Laramie River
13 Units 1, 2 and 3.

14 SNCR and SCR are more efficient controls that
15 cost more than low NOx burners for removal of nitrogen
16 oxides from stack gases prior to release into the
17 atmosphere. EPA is specifically seeking comment on an
18 alternative proposal related to the Jim Bridger plant
19 and the timing for installation of the NOx emission
20 controls for that facility.

21 As part of the public comment process and
22 explaining in detail throughout our notice, EPA is
23 specifically requesting that interested parties provide
24 any additional information that EPA may not be aware of
25 regarding our proposed BART determinations, including

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1 control technology determinations and the timing of
2 compliance, both for the proposed state and federal
3 plans.

4 EPA will consider all public comments and
5 information received, including additional options for
6 control technologies and timing before issuing a final
7 action. As detailed in our notice, supplemental
8 information we receive may lead us to adopt a final state
9 plan or a final federal plan that reflect a different
10 level of BART control or may impact other proposed
11 regulatory provisions which are different from our
12 proposed notice.

13 In addition, we are proposing to disapprove and
14 have a federal plan for the reasonable progress
15 determinations. Those are different from best available
16 retrofit technology options. For those facilities, we
17 are proposing limits for nitrogen oxides for two
18 electrical generating units. These units, again, are not
19 subject to the BART requirements. These units are Units
20 1 and 2 of PacifiCorp's Dave Johnston plant.

21 Again, we disagree with the State's
22 determination in this case that it is not reasonable to
23 impose additional NOx controls on these two units at this
24 time to achieve reasonable progress. We are proposing
25 the use of low NOx burners for these two units instead.

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1 As it has done with other states, EPA has
2 worked and will continue to work with Wyoming Department
3 of Environmental Quality and the affected facilities on
4 this important issue. We are accepting written comments.
5 Written comments must be received by EPA on or before
6 August 26th, 2013. As I noted earlier, this is an
7 extension from the August 9th date that is referenced in
8 our June 10th proposal.

9 We encourage your comments, and we will
10 consider all comments in finalizing our action on the
11 State's regional haze and visibility plans and in our
12 federal plan.

13 Thank you, and thank you for attending today.
14 I'll now turn it back over to Ms. Fallon to go ahead and
15 start comment.

16 MS. FALLON: As you present testimony,
17 please come to the table next to the court reporter and
18 spell your name. Make sure we have it in the record
19 correctly. And if you have written testimony that you'd
20 like to hand, you can give that to me as you come up or
21 leave, your choice.

22 The first commenter is Tyler Lower.

23 MR. LOWER: I didn't prepare a speech, so
24 it's going to be kind of off the cuff. Tyler Lower,
25 T-Y-L-E-R L-O-W-E-R. As a lifetime resident of Wyoming

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1 and a constituent and a son of a 20-plus-year employee of
2 Laramie River Station, I believe that the catalytic -- I
3 don't know how you put it or whatever. The catalytic
4 restriction, I guess you could say, on the emissions in
5 Laramie River Station would be very costly to the
6 taxpayer and also to people that need to buy the power
7 from the power plant.

8 The cost to install the equipment has to come
9 from somewhere. That's going to ultimately come from the
10 people paying for the electricity. The company, that's
11 their source of income, is the people that paid for the
12 electricity. And so, therefore, it's going to come out
13 of the everyday working man's pay to pay for that
14 equipment.

15 I also have concern as to the restriction it
16 would put on the generator units to put those on there.
17 In theory, I would believe that the restriction would
18 reduce the efficiency of units, causing them to burn more
19 coal in the long run.

20 And that's my main question to you, as well as
21 my statement.

22 MS. FALLON: Finished?

23 MR. LOWER: That's all I had.

24 MS. FALLON: Thank you, Mr. Lower.

25 Next Michael Easley.

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1 MR. EASLEY: My name is Michael E. Easley.
2 Thank you for allowing me to appear today. I'm the chief
3 executive officer for Powder River Energy Corporation.
4 It's the largest electric cooperative in Wyoming.

5 Electricity affordability and responsible
6 regulation are increasingly important issues to the state
7 of Wyoming, its electric utilities and the customers that
8 we are all privileged to serve. My perspective begins
9 with that of the individual customer at the end of the
10 line and expands to a broader perspective.

11 PRECorp is a customer-owned electric utility
12 and the largest electric cooperative in Wyoming, serving
13 350 megawatts of industrial, commercial and rural
14 residential customers. Our cooperative was formed in
15 1945 by a group of concerned citizens who decided not to
16 wait for electricity to be brought to them. Instead,
17 they brought electricity to themselves.

18 PRECorp's service territory now covers 17,100
19 square miles in northeast Wyoming and southern Montana.
20 Our service territory is larger than the states of
21 Massachusetts and New Hampshire combined. Powder River
22 is unique among rural electric cooperatives due to our
23 high percentage of industrial and commercial load, a good
24 portion of which is providing electric service to coal,
25 natural gas and oil companies in the Powder River Basin.

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1 I'd like to share with you PRECorp's mission
2 statement. Powder River Energy, your electric
3 cooperative, will deliver high-quality, competitively-
4 priced electric power and services to our member-owners,
5 while enhancing the quality of life by providing
6 leadership and service in our communities.

7 As part of that mission, we've identified areas
8 where we believe member and community engagement are
9 critical to our communities and our membership. We
10 strive to assure that our members are connected to the
11 cooperative issues through innovation, education and
12 communication. We also support political relevancy in
13 areas where there is impact to our member-owners.
14 Lastly, we strive to maintain a proactively balanced
15 regulatory framework.

16 Last week the governor of Wyoming shared his
17 concerns with a recently prepared federal implementation
18 plan for regional haze. He cites four separate items.
19 The EPA proposal harms ratepayers. The EPA plan is
20 unreasonable. The EPA proposal has not been a
21 cooperative effort and does not give deference to states
22 as Congress mandated. And winners and losers are created
23 through an agenda-driven regulatory process.

24 The CEO of Basin Electric, Andy Serri's,
25 concerns echo those of Governor Mead concerning the

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1 requirement to add control equipment installation at the
2 Laramie River Station. These proposed FIP additions make
3 no visible difference in the regional haze amounts in
4 Wyoming other than the additional revenue needed to place
5 the FIP in effect. And the proposed additions are
6 clearly not cost effective.

7 PRECorp's objective is to maintain a balanced
8 regulatory framework. The proposed EPA FIP clearly tips
9 the scales in the favor of costly regulation, with little
10 to no gain for the citizens of Wyoming. The EPA's FIP
11 would cost an additional 1.2 billion more than Wyoming's
12 SIP over the next 20 years. Adding over a billion for
13 the federal regulatory requirements and then millions in
14 annual costs towards the administration and oversight is
15 arbitrary and certainly an abuse of the discretion the
16 EPA could have exercised. Wyoming has always been a
17 proactive leader in managing its energy and natural
18 resources. And Powder River Energy, its largest electric
19 cooperative, has shown leadership in that area, as well.

20 Our member-owners have been proactive in
21 managing many regulatory requirements, spill preventions
22 in our substations, avian and sage grouse protection of
23 our power lines. We proudly spend hundreds of thousands
24 of dollars each and every year because we understand how
25 to balance the conflicts between the environment and the

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1 impacts of our existence upon it. The benefits are
2 tangible and the costs are reasonable.

3 This is clearly not the case with the proposed
4 takeover of Wyoming's air quality program by the EPA.
5 Speaking on behalf of our 12,000 members, we urge the EPA
6 to withdraw its FIP and approve Wyoming's plan in its
7 entirety.

8 Thank you for this opportunity to testify.

9 MS. FALLON: Thank you, Mr. Easley.

10 Is there anyone else who would like to present?

11 (No response.)

12 MS. FALLON: So we'll go off the record
13 for now.

14 (Hearing proceedings recessed

15 6:28 p.m. to 7:00 p.m.)

16 MS. FALLON: So we'll go back on the
17 record so we can close this evening's session. Thank you
18 all for coming. The hearing is now officially over. We
19 encourage anyone who intends to submit any written
20 comments before the end of the comment period to do so
21 sooner, rather than later. This will allow EPA more time
22 to consider and appropriately respond to comments. Thank
23 you.

24 (Hearing proceedings concluded

25 7:01 p.m., July 26, 2013.)

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C E R T I F I C A T E

I, RANDY A. HATLESTAD, a Registered Merit
Reporter, do hereby certify that I reported by machine
shorthand the proceedings contained herein constituting a
full, true and correct transcript.

Dated this 12th day of August, 2013.



Randy A. Hatlestad
RANDY A. HATLESTAD
Registered Merit Reporter